

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ROBERT BENSON,)	
)	
Plaintiff,)	
vs.)	NO. CIV-15-0428-HE
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of Social,)	
Security Administration)	
)	
Defendant.)	

ORDER

Plaintiff Robert Benson filed this action seeking judicial review of the final decision of the Acting Commissioner of the Social Security Administration denying his application for supplemental security income. Consistent with 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b), the case was referred to Magistrate Judge Charles B. Goodwin, who recommends that the Commissioner's decision be reversed and the case be remanded for further proceedings. The magistrate judge concluded the Administrative Law Judge erred by not expressly considering the potential borderline age issue which, because of plaintiff's age, had to be addressed.

The parties, having failed to object to the Report and Recommendation, waived their right to appellate review of the factual and legal issues it addressed. Casanova v. Ulibarri, 595 F.3d 1120, 1123 (10th Cir. 2010); *see* 28 U.S.C. §636(b)(1)(C). Accordingly, the court adopts Magistrate Judge Goodwin's Report and Recommendation, **REVERSES** the final decision of the Commissioner and **REMANDS** the case for further proceedings consistent

with the Report and Recommendation, a copy of which is attached to this order.

IT IS SO ORDERED.

Dated this 7th day of September, 2016.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE